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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/673,195	09/30/2003	Manabu Kitamura	566.43176X00	9622

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ALEXANDRIA, VA 22314

EXAMINER

JACOBS, LASHONDA T

ART UNIT PAPER NUMBER

2157

DATE MAILED: 08/21/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b> 10/673,195	<b>Applicant(s)</b> KITAMURA ET AL.	
	<b>Examiner</b> LaShonda T. Jacobs	<b>Art Unit</b> 2157	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 23 February 0206.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1,3-11,13,14 and 16-19 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1, 3-11, 13-14 and 16-19 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

## DETAILED ACTION

### *Response to Amendment*

This Office Action is in response to Applicants RCE Amendment filed on August 3, 2006.

Claims 1, 3-4, 7, 10-11, 14 and 16-17 have been amended. Claims 1, 3-11, 13-14 and 16-19 are presented for further examination.

### *Claim Rejections - 35 USC § 103*

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 1, 3-11, 13-14 and 16-19 are rejected under 35 U.S.C. 103(a) as being unpatentable over Midgley et al (hereinafter, "Midgley", U.S. Pat. No. 6,460,055) in view Anglin (U.S. Pat. No. 6,260,069).

As per claim 1, Midgley discloses a computer system comprising computers, first and second servers connected to said computers, and a storage system connected to said first and second servers, with said storage system comprising a plurality of storage devices and a storage controller which controls said plurality of storage devices, wherein:

said first server (Fig. 1, reference numeral 32) comprises:

- a first memory which stores a first program (col. 8, lines 2-14, lines 28-47); and
- a first CPU which executes said first program (col. 8, lines 2-14, lines 28-47);

said second server (Fig. 1, reference numeral 34) comprises:

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- a second memory which stores a second program (col. 8, lines 2-14, lines 28-47); and
- a second CPU which executes said second program (col. 8, lines 2-14, lines 28-47);

said second program comprises:

- a part for making a request to said first server via said network for information necessary for said second server to back up a file to said backup server as a backup object said file stored in said storage system and logically set with a path to said first server when said request is made (col. 12, lines 33-48);

said first program comprises:

- a part which responds to said request by sending said second server, via said network, an identifier of a second storage device in said storage system that stores duplicate data of said file (col. 12, lines 51-66); and

said second program further comprises:

- a part which obtains backup data from said duplicate data from said second storage device, based on said identifier (col. 12, lines 51-66).

However, Midgley does not explicitly disclose:

- a backup server connected to said second server off said network; and
- a part which sends the obtained backup data to said backup server off said network.

Anglin discloses a system for backing up files in a distributed computing system comprising:

- a backup server connected to said second server off said network (abstract, col. 4, lines 24-58 and col. 5, lines 45-56); and

- a part which sends the obtained backup data to said backup server off said network  
(abstract, col. 4, lines 24-58 and col. 5, lines 45-56).

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Midgley by implementing or incorporating back-up server that is attached to a second server off the network in order to allow the server to manage and back-up data attached to storage device in a timely and efficient manner.

As per claim 7, Midgley discloses a first server connected to computers and a second server and a storage system that comprises a plurality of storage devices and a storage controller which controls said plurality of storage devices wherein:

said first server comprises:

- a memory which stores a program (col. 8, lines 2-14, lines 28-47); and
- a CPU which executes said program (col. 8, lines 2-14, lines 28-47); and

said program comprises:

- a part which inhibits write into a file as a backup object, in response to a request by said second server via said network for information necessary for said second server to back up said file, said file being stored in said storage system and set with a path to said first server when said request is made (col. 17, lines 36-53);
- a part which generates duplicate data of said file; and
- a part which writes inhibited data waiting to be written into said file a first storage device in said storage system in which said file is stored, while said file is being duplicated (col. 17, lines 36-53); and

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- a part which sends said second server, via said network an identifier of a second storage device in said storage system that stores said duplicate data (col. 12, lines 51-66).

However, Midgley does not explicitly disclose:

- a backup server connected to said second server off said network.

Anglin discloses a system for backing up files in a distributed computing system comprising:

- a backup server connected to said second server off said network (abstract, col. 4, lines 24-58 and col. 5, lines 45-56); and

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Midgley by implementing or incorporating back-up server that is attached to a second server off the network in order to allow the server to manage and back-up data attached to storage device in a timely and efficient manner.

As per claim 10, Midgley discloses a second server connected to a plurality of computers and a first server via a network and a storage system that comprises a plurality of storage devices and a storage controller for controlling said plurality of storage devices, wherein:

said second server comprises:

- a memory which stores a second program (col. 8, lines 2-14, lines 28-47); and
- a CPU which executes said program (col. 8, lines 2-14, lines 28-47); and

said second program comprises:

- a part which makes a request to said server for information necessary for said second server back up a file as a backup object, said file being stored in said storage system

and set with a path to said first server via said network when said request is made (col. 12, lines 33-48);

- a part which receives, via said network an identifier of a second storage device in said storage system that stores duplicate data of said file, from said first server (col. 12, lines 49-66); and
- a part which obtains backup data from said duplicate data from said second storage device, based on said identifier (col. 12, lines 49-66).

However, Midgley does not explicitly disclose:

- a backup server connected to said second server off said network; and
- a part which sends the obtained backup data to said backup server off said network.

Anglin discloses a system for backing up files in a distributed computing system comprising:

- a backup server connected to said second server off said network (abstract, col. 4, lines 24-58 and col. 5, lines 45-56); and
- a part which sends the obtained backup data to said backup server off said network (abstract, col. 4, lines 24-58 and col. 5, lines 45-56).

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Midgley by implementing or incorporating back-up server that is attached to a second server off the network in order to allow the server to manage and back-up data attached to storage device in a timely and efficient manner.

As per claim 14, Midgley discloses a backup method for performing backup in a computer system comprising a plurality of computers, first and second servers connected to said

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computers, and a storage system connected to said first and second servers, with said storage system comprising a plurality of storage devices and a storage controller which controls said plurality of storage devices, wherein:

- said second server makes a request, via said network, to said first server for information necessary for said second server to backup a file to said backup server as a backup object, said file being stored in said storage system and set with a path to said first server when said request is made (col. 12, lines 33-48);
- said first server sends an identifier, via said network, of a second storage device, in said storage system that stores duplicate data of said file, in response to said request (col. 12, lines 49-66); and
- said second server obtains backup data from said duplicate data from said second storage device, based on said identifier (col. 12, lines 49-66).

However, Midgley does not explicitly disclose:

- a backup server connected to said second server off said network; and
- a part which sends the obtained backup data to said backup server off said network.

Anglin discloses a system for backing up files in a distributed computing system comprising:

- a backup server connected to said second server off said network (abstract, col. 4, lines 24-58 and col. 5, lines 45-56); and
- a part which sends the obtained backup data to said backup server off said network (abstract, col. 4, lines 24-58 and col. 5, lines 45-56).



Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Midgley by implementing or incorporating back-up server that is attached to a second server off the network in order to allow the server to manage and back-up data attached to storage device in a timely and efficient manner.

As per claims 3, 11 and 16, Midgley discloses the invention substantially as claims discussed above.

However, Midgley does not explicitly disclose:

- said second program further comprises a part which sets the second server with a path to said second storage device off said network, based on said identifier.

Anglin discloses a system for backing up files in a distributed computing system comprising:

- said second program further comprises a part which sets the second server with a path to said second storage device off said network, based on said identifier (abstract, col. 4, lines 24-58 and col. 5, lines 45-56).

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Midgley by implementing or incorporating back-up server that is attached to a second server off the network in order to allow the server to manage and back-up data attached to storage device in a timely and efficient manner.

As per claim 4, Midgley discloses wherein:

- said file is stored in a first storage device in said storage system; and
- said first program further comprises a part which inhibits write into said file in said first storage device while said file is being duplicated to said second storage device,

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and which writes inhibited data, waiting to be written into said file, into said first storage device while said file is being duplicated (col. 17, lines 36-53).

As per claims 5, 8 and 18, Midgley discloses wherein said first program further comprises:

- a part which sends said storage system an ID of a port connected to said second storage device (col. 7, lines 1-9); and
- a part which receives the identifier of said second storage device, with said identifier being sent by said storage system in response to receipt of said ID (col. 12, lines 49-66).

As per claims 6, 9, 13 and 19, Midgley discloses:

- said request a directory name of the backup object (col. 11, lines 46-61).

As per claim 17, Midgley discloses:

- said first server inhibits write into said file, and writes inhibited data, waiting to be written into said file into a first storage device in said storage system in which said file is stored, while said file is being duplicated (col. 17, lines 36-53).

### ***Response to Arguments***

3. Applicant's arguments with respect to claims 1, 3-11, 13-14 and 16-19 have been considered but are moot in view of the new ground(s) of rejection.

*Conclusion*

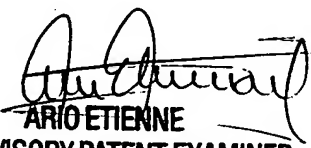
Any inquiry concerning this communication or earlier communications from the examiner should be directed to LaShonda T. Jacobs whose telephone number is 571-272-4004. The examiner can normally be reached on 8:30 A.M.-5:00 P.M..

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Ario Etienne can be reached on 571-272-4001. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

LaShonda T Jacobs  
Examiner  
Art Unit 2157

ltj  
August 16, 2006

  
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